Text: HSB287 Text: HSB289

House Study Bill 288

HOUSE FILE BY (PROPOSED COMMITTEE ON GOVERNMENT OVERSIGHT BILL BY CHAIRPERSON LENSING)

Passed	House,	Date	Passed	Senate,	Date
Vote:	Ayes	Nays	Vote:	Ayes	Nays
Approved					

A BILL FOR

- 1 An Act relating to the authority of the director of the
- 2 department of natural resources in disaster emergencies.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2375HC 83
- 5 tm/rj/8

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- 1 1 Section 1. NEW SECTION. 455A.4A DIRECTOR AUTHORITY == 1 2 DISASTER EMERGENCIES.
- 1 3 Upon a proclamation of disaster emergency by the governor
- 1 4 pursuant to section 29C.6, the director may do any of the
- 1 5 following:
- 1 6 1. Suspend any requirement in title XI, subtitles 1, 2,
- 1 7 and 6, or any rule adopted pursuant to such subtitles if
- 1 8 strict compliance with the statute or rule would prevent,
- 1 9 hinder, or delay necessary action in responding to the
- 1 10 disaster emergency.
- 2. Issue orders as necessary to respond to the disaster
- 1 12 emergency which shall be effective immediately upon issuance.
- 1 13 Any appeal or request for review of such orders shall not
- 1 14 suspend the implementation of the action ordered.
- 3. Adopt rules and policies as necessary to respond to the
- 1 16 disaster emergency. Such rules and policies shall be exempt
- 1 17 from being promulgated as provided in chapter 17A.
- 1 18 4. Any suspension of a statute or rule, issuance of an
- 1 19 order, or adoption of a rule or policy shall meet all of the
- 1 20 following criteria:
- 1 21 a. It must be as narrow as possible to respond to and
- 1 22 remedy the disaster emergency condition.
- 1 23 b. It must be limited to the time necessary to address the
- 1 24 disaster emergency conditions and any repairs and remedial
- 1 25 measures associated with the disaster emergency.
- 1 26 c. It must be developed and implemented so as not to
- 1 27 result in loss of federal moneys or program delegation.

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1	28	EXPLANATION
_	29	This bill relates to the authority of the director of the
1	30	department of natural resources in disaster emergencies.
_	31	
		and administrative rules if strict compliance with the statute
		or rule would prevent, hinder, or delay necessary action in
		responding to the disaster emergency. The director may issue
1	35	orders as necessary to respond to the disaster emergency which
2		shall be effective immediately upon issuance. The director
2		may adopt rules and policies as necessary to respond to the
2		disaster emergency. Such actions must be narrowly prescribed,
2	4	limited in time, and implemented in accordance with federal
2	5	law.
2	6	LSB 2375HC 83
2	7	tm/rj/8

Text: <u>HSB287</u> Text: <u>HSB289</u>

Amend House Study Bill 288 as follows:

Applicable Iowa Code Chapter 29C Governor Emergency Powers

29C.6 PROCLAMATION OF DISASTER EMERGENCY BY GOVERNOR.

In exercising the governor's powers and duties under this chapter and to effect the policy and purpose, the governor may:

6. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules, of any state agency, if strict compliance with the provisions of any statute, order or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency by stating in a proclamation such reasons. Upon the request of a local governing body, the governor may also suspend statutes limiting local governments in their ability to provide services to aid disaster victims.

29C.19 RULES AND ORDER EXEMPTED.

Any order issued or rule promulgated by a state agency during a declared disaster emergency and pursuant to the provisions of this chapter shall be exempt from being issued or promulgated as provided in chapter 17A



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF SUSPENSION OF RULES DUE TO DISASTER EMERGENCY

WHEREAS, ON SUNDAY, MAY 25, 2008 AND CONTINUING, SEVERE STORM SYSTEMS MOVED ACROSS PORTIONS OF IOWA; AND

WHEREAS, STORMS HAVE RESULTED IN WIDESPREAD FLOODING AND DESTRUCTION TO AREAS IN IOWA; AND

WHEREAS, EIGHTY-SIX (86) COUNTIES HAVE BEEN DECLARED DISASTER AREAS ("THE GOVERNOR'S DESIGNATED COUNTIES") AS A RESULT OF SAID STORMS; AND

WHEREAS,

SEVENTY-EIGHT (78) OF THE EIGHTY-SIX (86) COUNTIES ("THE PRESIDENTIAL DISASTER COUNTIES") HAVE BEEN DECLARED DISASTER AREAS BY THE PRESIDENT OF THE UNITED STATES AS A RESULT OF SAID STORMS; AND

WHEREAS,

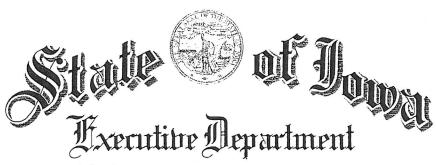
DAMAGE CAUSED BY THESE NATURAL DISASTERS HAS CREATED AN IMMEDIATE NEED TO RESPOND TO THE DAMAGE IN A MANNER THAT IS PROTECTIVE OF HEALTH, SAFETY AND THE ENVIRONMENT; AND

WHEREAS,
IOWA CODE SECTION 29C.6(6) AUTHORIZES THE GOVERNOR OF THE STATE
OF IOWA TO SUSPEND REGULATORY STATUTES PRESCRIBING THE
PROCEDURES FOR CONDUCT OF STATE BUSINESS, OR THE ORDERS OR
ADMINISTRATIVE RULES OF ANY AGENCY AFTER PROCLAMATION OF A
DISASTER IF STRICT COMPLIANCE WITH THE PROVISIONS OF ANY STATUTE,
ORDER OR RULE WOULD IN ANY WAY PREVENT, HINDER, OR DELAY
NECESSARY ACTION IN COPING WITH THE EMERGENCY; AND

WHEREAS, STRICT COMPLIANCE WITH THESE SPECIFIED AGENCY RULES COULD PREVENT, HINDER, OR DELAY NECESSARY ACTION RESULTING FROM THIS DISASTER.

NOW, THEREFORE, I, CHESTER J. CULVER, GOVERNOR OF THE STATE OF IOWA, BY THE POWER AND AUTHORITY VESTED TO ME BY THE CONSTITUTION, ARTICLE IV, SECTIONS 1 AND 8, AND IOWA CODE SECTION 29C.6(1), DO HEREBY DECLARE THE FOLLOWING MEASURES:

- 1. PURSUANT TO IOWA CODE SECTION 29C.6(6), I DO HEREBY SUSPEND THE 30-DAY NOTICE REQUIREMENT FOR USE OF SAND AND SANDBAGS AS AN ALTERNATIVE DAILY COVER AT A SANITARY LANDFILL, CONTAINED IN IOWA ADMINISTRATIVE CODE RULE 567---108.8, WITHIN ALL OF THE GOVERNOR'S DESIGNATED COUNTIES
- 2. PURSUANT TO IOWA CODE SECTION 29C.6(6), 1 DO HEREBY SUSPEND IOWA ADMINISTRATIVE CODE RULE 567—109.11(2)(EXCEPT SUBSECTION "A") WITHIN ALL OF THE GOVERNOR'S DESIGNATED COUNTIES RELATING TO THE DISPOSAL OF PETROLEUM-CONTAMINATED SOIL AT A SANITARY LANDFILL. RULE 567—109.11(2)"A", WHICH PROHIBITS THE DEPOSIT OF SOIL CONTAINING HAZARDOUS WASTE, REMAINS IN EFFECT STATE-WIDE.
- 3. PURSUANT TO IOWA CODE SECTION 29C.6(6), I DO HEREBY SUSPEND IOWA ADMINISTRATIVE CODE RULE 567—113.4(12) WITHIN ALL OF THE GOVERNOR'S DESIGNATED COUNTIES. PUBLIC COMMENTS RECEIVED WITHIN 30 DAYS OF FINAL



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

SANITARY LANDFILL PERMIT ACTIONS WILL BE ACCEPTED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSIDERED TO DETERMINE WHETHER FURTHER MODIFICATION OF THE PERMIT IS APPROPRIATE.

- 4. PURSUANT TO IOWA CODE SECTION 29C.6(6), I DO HEREBY SUSPEND IOWA ADMINISTRATIVE CODE RULE 567—118.4(3) WITHIN ALL OF THE GOVERNOR'S DESIGNATED COUNTIES, THEREBY ALLOWING THE TEMPORARY STORAGE OF OVER 1,000 DISCARDED APPLIANCES AT A LOCATION PRIOR TO DEMANUFACTURING.
- 5. PURSUANT TO IOWA CODE SECTION 29C.6(6), I DO HEREBY SUSPEND IOWA ADMINISTRATIVE CODE RULES 567—100.4(2)"B" AND "C" (EXCEPT SUBSECTIONS "C"(2) AND (3)) WITHIN ALL OF THE PRESIDENTIAL DISASTER COUNTIES RELATING TO THE DISPOSAL OF DEAD FARM ANIMALS. DISPOSAL OF DEAD FARM ANIMALS SHALL BE IN ACCORDANCE WITH THE FOREIGN ANIMAL DISEASE RESPONSE PLAN. CHAPTER 7, FOUND AT <u>HTTP://WWW.IOWADNR.GOV/AFO/FILES/FAD_REPORT.PDF</u>. RULES 567—100.4(2)"C"(2) AND (3), WHICH ESTABLISH SEPARATION DISTANCES FROM AN ADJACENT PROPERTY LINE AND AN EXISTING NEIGHBORING RESIDENCE. RESPECTIVELY, REMAIN IN EFFECT STATE-WIDE.
- 6. PURSUANT TO IOWA CODE SECTION 29C.6(6), I DO HEREBY SUSPEND IOWA ADMINISTRATIVE CODE RULES 567-71.9 AND 72.9, WITHIN ALL OF THE PRESIDENTIAL DISASTER COUNTIES RELATING TO ARMORING AND REVETMENT PROTECTIVE DEVICES ALONG STREAM CHANNELS. ARMORING AND REVETMENT PROTECTIVE DEVICES ALONG STREAM CHANNELS MAY BE CONSTRUCTED OR INSTALLED WITHIN THOSE AREAS WITHOUT A PERMIT AS PROVIDED IN APPENDIX A.
- 7. THIS PROCLAMATION IS EFFECTIVE IMMEDIATELY AND WILL REMAIN IN EFFECT IN EACH COUNTY FOR THE PERIOD OF TIME DURING WHICH THE COUNTY IS SUBJECT TO A DECLARATION OF DISASTER EMERGENCY.

CHESTER J. CULVER GOVERNOR OF IOWA

THOUSAND EIGHT.

IN TESIMONY WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND CAUSED THE GREAT SEAL OF THE STATE OF IOWA TO BE AFFIXED. DONE AT DES MOINES, IOWA THIS 8TH DAY OF JULY IN THE YEAR OF OUR LORD TWO

ATTEST:

MICHAEL A. MAURO SECRETARY OF STATE

APPENDIX A

Armoring/revetment protective devices in stream channels.

- a. Armoring material shall be limited to quarry rock, field stone, broken concrete, gabion baskets or gabion mattresses. If broken concrete is used, all exposed reinforcing steel must be removed from the concrete or cut flush with the surface of the concrete prior to placement and must be maintained free of exposed reinforcing steel. Broken concrete slabs must not exceed three feet in any dimension. The revetment material should consist of a mixture of sizes so as to form a dense, interlocking blanket. The use of asphalt or other material considered to be solid waste is prohibited.
- b. Armoring material shall be placed on the existing or a prepared stream bank with a finished slope of no steeper than 1.5 feet horizontal to 1 foot vertical (1.5H:1V).
- c. The thickness of the blanket of armoring materials shall not exceed three feet. In no case shall the material be placed so that the resulting channel cross-section is more restrictive than the adjacent natural upstream and downstream channel cross-section. The placement of armoring material into isolated scour hole areas may exceed the maximum thickness limitation of three feet as long as the material does not obstruct the channel.
- d. Any spoil material resulting from stream bank shaping must be disposed outside the flood plain in a non-wetland location.
- e. The armoring material shall not extend vertically above the adjacent top of bank.
- f. Project registration is required for armoring/revetment protective devices. The following project information shall be sent to the Attention of Annie Hartman, Iowa Department of Natural Resources: Name, phone number and mailing address of the project point of contact, location of the project (in the Quarter-Quarter, Section-Tier-Range format), and length of stream reach affected. This registration is for informational purposes only. The department will not send a response to the project registration.